

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CECIL BROOKINS,	:	
Plaintiff,	:	
v.	:	Case No. 3:04-cv-35-KRG-KAP
CITY OF PITTSBURGH, <u>et al.</u> ,	:	
Defendants	:	

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on March 2, 2009, docket no. 120, recommending that the defendants' motion for summary judgment, docket no. 110, be granted. A previous Report and Recommendation, docket no. 93, recommended dismissal of all claims other than the excessive use of force claim at issue in the motion for summary judgment.

As to both Reports and Recommendations, the parties were notified that, pursuant to 28 U.S.C. § 636(b)(1), they had ten days to file written objections to the Report and Recommendation. Plaintiff filed objections, docket no. 96, docket no. 103, to the earlier Report and Recommendation. Plaintiff has not filed objections to the Report and Recommendation recommending summary judgment, but has filed a motion for injunctive relief, docket no. 121, seeking an order commanding the prison where he is held to allow him additional access to the law library, and a motion for extension of time to file objections. docket no. 122.

After de novo review of the record of this matter and both Reports and Recommendations, the following order is entered:

AND NOW, this 27th day of March, 2009, it is

ORDERED that the defendants' motion for summary judgment, docket no. 110, is granted. Both Reports and Recommendations are adopted as the opinions of the Court. The plaintiff's motions for a writ of mandamus, docket no. 121, and for extension of time, docket no. 122, are denied. The Report and Recommendation recommending summary judgment rests, fundamentally, on the lack of dispute about who fired first on February 20, 2002. After seven years, no extension of time can conceivably be necessary to probe that issue further. The Clerk shall mark this matter closed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice by ECF to counsel of record and by U.S. Mail to:

Cecil Brookins EX-5514
S.C.I. Houtzdale
P.O. Box 1000
Houtzdale, PA 16698-1000